Cal. 206; *Whitney v. Port Huron,* 88 Mich. 268. From these citations it appears that even in Michigan, where the present case was decided, the decisions are not harmonious. The rule held generally is, contrary to the decision in the present case, that mere inaction will not estop the complainant from contesting the jurisdiction of the officials. *Ogden City v. Armstrong,* 168 U. S. 224; *Canfield v. Smith,* 34 Wis. 381.

EVIDENCE—ADMISSIBILITY—DANGEROUS PREMISES.—POTTER V. CAVE, 98 N. W. 569 (IA.).—In an action for injuries sustained by falling down an unguarded stairway, plaintiff attempted to introduce evidence of previous accidents on the stairway and of warnings to the defendant that it was dangerous. *Held,* that it was properly excluded.

Following previous decisions in the same court, *Hudson v. R. R.,* 59 Ia. 581; *Croddy v. R. R.,* 91 Ia. 605. But the court has intimated its disapproval of this view. *Mathews v. Cedar Rapids,* 80 Ia. 466. The leading case in support is, *Collins v. Dorchester,* 6 Cush. 396; *Hubbard v. R. R.,* 39 Me. 508. The objection to the evidence is based on the fact that its introduction tends to divert the attention of the jury from the real question in dispute by raising a collateral issue. The better rule, however, seems to be that such evidence is admissible. The character of the place being in issue the defendant should be prepared to show its real character in the face of any proof bearing on the subject. *Columbia v. Armes,* 107 U. S. 519; *Quinlan v. Utica,* 74 N. Y. 603; *Chicago v. Powers.* 42 Ill. 169. As tending to support the principal decision, in a number of cases evidence that persons had escaped injury was excluded. *Aldrich v. Pelham,* 1 Gray 510; *Ass'n. v. Giles,* 33 N. J. L. 263. But in the latter case the court said that the matter rested in the discretion of the court; it being often better to admit such evidence. As illustrating a case where this kind of evidence was properly admitted see *Calkins v. Hartford,* 33 Conn. 57. But this latter class of evidence, viz.: that other persons escaped injury, is not so convincing as evidence that others were injured, since persons are not wont to seek such places and do not willingly fall into them. *Columbia v. Armes, supra.*

LEASE—COVENANTS AND WARRANTIES—QUIET ENJOYMENT—EMINENT DOMAIN.—PABST BREWING CO. V. THORLEY, 127 FED. 439 (C. C. A.).—Where a lessor covenanted to secure the lessee in the quiet enjoyment of the premises against acts of the lessor, his heirs, executors, administrators or assigns, "or any other persons," *held,* that the words "or any other persons," being read by the rule *ejusdem generis,* do not warrant against the exercise by the government of its power of eminent domain.

All contracts are inherently subject to the paramount power of the sovereign, and the exercise of such power is never understood to involve their violation. The power acts upon the property which is the subject of the contract, and not upon the contract itself. *Osborn v. Nicholson,* 13 Wall. 655. Eminent domain is the right of the sovereign, without the consent of the owner, when necessary, to make private property subservient to the public welfare, and hence does not involve paramount ownership in the State. *Giesy v. Cincinnati, W. & Z. R. Co.,* 4 Ohio St. 308. Even the act of a *de facto* sovereign is outside the scope of the covenant. If the sovereignty be eventu-